

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
MINNEAPOLIS**

CASE NO.:

GRANT HEILMAN PHOTOGRAPHY, INC.,

Plaintiff,

v.

RAM BUILDINGS, INC.,

Defendant,

COMPLAINT FOR COPYRIGHT INFRINGEMENT

(INJUNCTIVE RELIEF DEMANDED)

Plaintiff, GRANT HEILMAN PHOTOGRAPHY, INC., by and through its undersigned counsel, brings this Complaint against Defendant, RAM BUILDINGS, INC., for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff GRANT HEILMAN PHOTOGRAPHY, INC. (“GHP”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute, GHP's original copyrighted Work of authorship.

2. GHP has provided the world with rights-managed stock photography for over seventy years. GHP is situated in Pennsylvania’s beautiful Lancaster County farmland. Its library holds more than a half-million images in specialized subject matter, the finest selection of agriculture, natural science, horticulture, wildlife, and renewable energy imagery. In addition, its library contains a vintage collection of black and white photography from the 1920s through the 1960s, showcasing farm life during the great depression and beyond. Renowned photographer Grant Heilman (“Heilman”) began marketing his imagery in 1948 after accumulating captivating

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photography that complimented his photojournalism career. Heilman worked hard to establish an upstanding business philosophy that drew customers worldwide. In the past half century, GHP's library has grown to represent the collections of more than 150 professional photographers.

3. Defendant RAM BUILDINGS, INC. ("RAM") is a design and construction company that focuses on wood and steel frames. They offer services for post frame buildings - pole buildings, steel frame buildings, post and beam buildings, and wood frame buildings. At all times relevant herein, Ram owned and operated the internet website located at the URL <https://rambuildings.com/> (the "Website").

4. GHP alleges that Defendant copied their copyrighted Work from the internet in order to advertise, market and promote its business activities. RAM committed the violations alleged in connection with its business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in Minnesota.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, RAM engaged in infringement in this district, RAM resides in this district, and RAM is subject to personal jurisdiction in this district.

DEFENDANT

9. RAM Buildings, Inc. is a Minnesota Corporation, with its principal place of business at 592 Industrial Drive, Winsted, Minnesota, 55395, and can be served by serving its Chief Executive Officer, Rawelin J. Radtke, at 592 Industrial Drive, Winsted, MN, 55395.

THE COPYRIGHTED WORK AT ISSUE

10. In 2003, non-party Fred Habegger created the photograph entitled “GHP-4593462”, which is shown below and referred to herein as the “Work”.



11. Fred Habegger subsequently transferred all rights in the Work to Plaintiff, Grant Heilman Photography, Inc.

12. GHP registered the Work with the Register of Copyrights on July 09, 2008, and was assigned registration number VA 1-637-821. The Certificate of Registration is attached hereto as **Exhibit 1**.

13. GHP displayed the Work on professional website at the following URL:
<https://www.heilmanphoto.com/frameset.asp?tag=results.asp&txtkeys=GHP-4593462> (the “GHP

Website”). At the time the Work was published on the GHP Website and at all times thereafter, GHP displayed their copyright notice link on the GHP Website.¹

14. GHP’s display of the Work on the GHP Website also included copyright management information (“CMI”) in the form of visible watermarks embedded on the Work and various copyright notices (collectively, the “Attributions”).

15. GHP's Work is protected by copyright but was not otherwise confidential, proprietary, or trade secrets. The Work in perspective, orientation, positioning, lighting, and other details are entirely originally, distinctive, and unique. As such, the Work qualifies as subject matter protectable under the Copyright Act.

16. At all relevant times GHP was the owner of the copyrighted Work.

INFRINGEMENT BY RAM BUILDINGS, INC

17. RAM has never been licensed to use the Work at issue in this action for any purpose.

18. On a date after the Work at issue in this action was created, but prior to the filing of this action, RAM copied the Work.

19. On or about June 23, 2023, GHP discovered the unauthorized use of its Work on the Website at the URL <https://rambuildings.com/about-us/design-philosophy/>.

20. RAM copied GHP's copyrighted Work without GHP's permission or authority.

21. After RAM copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its business.

¹ <https://www.heilmanphoto.com/frameset.asp?tag=results.asp&txtkeys=GHP-4593462>

22. RAM copied and distributed GHP's copyrighted Work in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

23. RAM committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

24. GHP never gave Defendant permission or authority to copy, distribute or display the Work at issue in this case.

25. GHP notified RAM of the allegations set forth herein on June 28, 2023, and October 28, 2023. To date, the parties have failed to resolve this matter.

26. When RAM copied and displayed the Work at issue in this case, RAM removed GHP's copyright management information from the Work.

27. GHP never gave RAM permission or authority to remove copyright management information from the Work at issue in this case.

COUNT I
COPYRIGHT INFRINGEMENT

28. GHP incorporates the allegations of paragraphs 1 through 27 of this Complaint as if fully set forth herein.

29. GHP owns a valid copyright in the Work at issue in this case.

30. GHP registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

31. RAM copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without GHP's authorization in violation of 17 U.S.C. § 501.

32. RAM performed the acts alleged in the course and scope of its business activities.

33. Defendant's acts were willful.

34. GHP has been damaged.

35. The harm caused to GHP has been irreparable.

COUNT II
REMOVAL OF COPYRIGHT MANAGEMENT INFORMATION

36. GHP incorporates the allegations of paragraphs 1 through 35 of this Complaint as if fully set forth herein.

37. The Work contains copyright management information (“CMI”) in the form of Attributions on the GHP Website.

38. RAM knowingly and with the intent to enable or facilitate copyright infringement, displayed the Work on the Website without any of the Attributions in violation of 17 U.S.C. § 1202(b).

39. RAM distributed the Work to the Website knowing that the CMI had been removed or altered without authority of the copyright owner or the law.

40. RAM committed these acts knowing or having reasonable grounds to know that it would induce, enable, facilitate or conceal infringement of GHP's rights in the Work.

41. RAM caused, directed and authorized others commit these acts knowing or having reasonable grounds to know that it would induce, enable, facilitate or conceal infringement of GHP's rights in the Work at issue in this action protected under the Copyright Act.

42. GHP has been damaged.

43. The harm caused to GHP has been irreparable.

WHEREFORE, the Plaintiff GRANT HEILMAN PHOTOGRAPHY, INC. prays for judgment against the Defendant RAM BUILDINGS, INC. that:

a. RAM Buildings, Inc and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. §§ 501 and 1202;

b. RAM Buildings, Inc be required to pay Grant Heilman Photography, Inc. its actual damages and Defendant's profits attributable to the infringement, or at GHP's election, statutory damages, as provided in 17 U.S.C. §§ 504 and 1203;

c. Grant Heilman Photography, Inc. be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Grant Heilman Photography, Inc. be awarded pre- and post-judgment interest; and

e. Grant Heilman Photography, Inc. be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Grant Heilman Photography, Inc. hereby demands a trial by jury of all issues so triable.

DATED: February 13, 2024

Respectfully submitted,

/s/ Nathan M. Hansen

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